

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Crl.MC.No. 3818 of 2007()

ST.4017/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, CHITTUR
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PETITIONER/ACCUSED:

PREMA MUKHERJI, W/O. KARTHIK MUKHERJI
THEKKUMTHODI HOUSE, NURANI P.O.
PALAKKAD.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS:

STATE OF KERALA REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 3818 of 2007

Dated this the 19th day of December, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. She had entered appearance and was enlarged on bail. Consequent to her non-appearance before the learned Magistrate, reckoning her as absconding, coercive processes have been issued against the petitioner by the learned Magistrate. Such processes are now chasing her.

2. According to the petitioner she is absolutely innocent. Her failure/omission to appear earlier was not wilful, but was due to reasons beyond her control. She is willing to surrender before the learned Magistrate, but she apprehends that her application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when she surrenders before the learned Magistrate on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George v. Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of this case, there shall be a direction that the warrant of arrest issued against the

petitioner shall not be executed till 22.12.2007, on or before which date the petitioner must surrender before the learned Magistrate and seek regular bail.

6. Hand over the order.

(R. BASANT)
Judge

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